

Building Safety update

Purpose of report

For discussion.

Summary

This report updates Fire Commission on the LGA's building safety related work since its last meeting.

Recommendation

That members note and comment on the LGA's building safety related work.

Actions

Officers to incorporate members' views in the LGA's ongoing building safety related work.

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Building Safety update

Summary of events since the previous meeting

1. Since the Commission's last meeting the LGA has continued to work with the Ministry of Housing, Communities and Local Government (MHCLG) and the Home Office to support building safety reform and the remediation of dangerous buildings. The Joint Inspection Team has resumed inspections. The [Building Safety Bill](#) has been published in draft form and is about to be subjected to pre-legislative scrutiny by the Housing Communities and Local Government Select Committee. The [Fire Safety Bill](#) has passed its third reading in the House of Commons and has now been introduced in the Lords. The LGA is participating in an officer-level task and finish group looking at the timing of the Bill's commencement. A [consultation](#) on measures to be included in secondary legislation under the Fire Safety Order, including the implementation of recommendations from the Grenfell Tower Inquiry, has been published.

Remediation

Progress

2. In the three years since Grenfell Tower fire less than half the 458 buildings with dangerous aluminium composite material (ACM) cladding systems have been fully remediated; nearly a fifth have yet to even begin work and the LGA anticipates that ongoing data collection could find almost four times as many buildings with dangerous non-ACM systems.
3. Between the end of April and the end of July only 6 social sector buildings and 1 private building completed remediation work. No new remediation work was begun in the social sector and only 8 buildings started remediation in the private sector.
4. Covid-19 was a factor in this. At the end of July work on 19 buildings remained paused while work on a further 60 had restarted after being interrupted (work on 50 buildings had not been interrupted by Covid-19 and the position on 19 was unknown). With the easing of lockdown restrictions the pace of work has increased again.
5. However, even without the effects of the pandemic, progress on remediation is worryingly slow in the private sector. Remediation has finished on 83 of the 155 social sector blocks, the cladding has been removed from or work has started on 63 and a further 9 have plans in place (the position of one block is unclear). However, only 32 private high-rise residential buildings with ACM have completed remediation. A further 177 buildings are yet to be remediated; of these, 88 have not begun work.

6. While councils' overriding concern will be the safety of residents, those living in the affected blocks face mounting costs from interim fire safety measures such as waking watches and there is growing evidence (for example [here](#) and [here](#)) that increasing numbers of residents in high rise blocks are finding it difficult or impossible to sell, re-mortgage or staircase due to the reluctance of finance companies to lend money without the provision of an EWS1 form (which certifies that the cladding system is safe), the shortage of surveyors able to sign off EWS1 forms and the reluctance of the insurance industry to provide those who can do the work with professional indemnity insurance. There is also evidence that building insurance costs are rising. Not only are these issues slowly bankrupting leaseholders, if unchecked they must sooner or later have a negative effect on the housing market.
7. The best solution to all of these problems is to remove unsafe cladding systems. However, at the current rate that will take around 20 years and in the meantime there is a significant risk of psychological problems for all residents, financial problems for leaseholders and a possible knock-on effect to the economy without government intervention.
8. The Government is funding most ACM removal but its £1 billion non-ACM cladding fund is being operated on a first-come-first-served basis and is likely to cover only about one third of cases. Councils are struggling to access it and the Ministry has been clear that the fund is not really aimed at social housing (although it is supposed to cover costs that might fall on leaseholders in socially-owned blocks). The LGA is flagging this issue in its spending review submission.
9. The Minister wrote to councils with buildings that have no plan to start remediation work this year on 31 July 2020 asking them to consider enforcement action. He also wrote to building owners and fire services. He wants to see fire services and councils taking a case-conferencing approach to these buildings.

Joint Inspection Team

10. As members will recall the LGA is hosting the Joint Inspection Team (JIT) to support councils to use their enforcement powers under the Housing Act and the Housing Health and Safety Rating System.
11. The team has resumed inspections following a hiatus caused by Covid-19 and has recruited its full complement of staff. It is inspecting roughly two buildings a month, twice the previous rate. The JIT has now inspected 11 buildings in total and has several other inspections pending. A number of improvement notices have been issued by the local authorities that have been supported by the team. No tribunal hearings have taken place as yet.

Data collection on external wall systems

12. In July 2019 councils were asked by MHCLG to collect data on the external wall systems on all high-rise residential buildings in England. MHCLG had hoped that the exercise would be complete by March 2020, although it was recognised that for some councils with large numbers of blocks this would be a challenge – one that has been exacerbated by Covid-19 issues. We understand that 25 per cent of the data remains uncollected.
13. MHCLG is also looking at how to collect data on buildings between 11m and 18m. No easy way to do this has been identified so far.

HCLG Select committee Report

14. The HCLG committee [reported](#) on the progress of cladding remediation on 12 June. The LGA submitted evidence to the enquiry. The key points of the report were:
 - 14.1 Remediation is moving too slowly.
 - 14.2 The £1 billion fund (see above) will not be enough to cover the costs of remediation and will need to be increased to cover all fire safety defects in buildings under 18m as well as those over 18m.
 - 14.3 Interim fire safety measures should also be funded.
 - 14.4 Those responsible for the building safety crisis should ultimately contribute to meeting the bill.
 - 14.5 The External Wall Fire Review (EWS1) process is not working and the Government should provide a better system.
 - 14.6 The Government must ensure that residents in affected buildings are offered support by the NHS to cope with the physical and mental health toll of living in a potentially dangerous building.
15. Most of these findings and proposals reflect points made in our evidence. However, the LGA has yet to determine its response to the final proposal:
 - 15.1. The government should consider establishing a new national body to take direct ownership of the freehold of buildings with serious fire safety defects and remediate them.
 - 15.2. The Building Safety Bill does include a power for the regulator to take similar action.

Public Accounts Committee Report

16. The Public Accounts Committee has now [reported](#) on the progress of remediation. The LGA's written evidence, which was essentially the same as that submitted to the HCLG committee.
17. The committee has recommended that MHCLG should:
 - 17.1. within six months: a) be working with the new Building Safety Regulator, begin vigorous enforcement action against any building owners whose remediation projects are not on track to complete by the end of 2021; and b) begin publishing monthly updates of projected completion dates for all remaining high-rise buildings with ACM cladding, to increase transparency of progress without identifying individual buildings.
 - 17.2. within three months: a) publish its impact assessment of the safety risks and financial impacts on private leaseholders and social landlords (including knock-on impacts on house building and maintenance of existing stock) arising from only funding a fraction of the estimated costs of replacing non-ACM cladding from high-rise blocks; and b) write to us, outlining its assessment of the risks to public money of committing all £1 billion of the Building Safety Fund by the end of March 2021, and how it will monitor and mitigate these risks.
 - 17.3. working with the Care Quality Commission and local authorities, should make it a priority for its forthcoming data collection exercise to identify any care homes below 18 metres which have dangerous cladding. The Department should write to us by the end of 2020 setting out progress on this and on its wider data collection.
 - 17.4. write to us within three months, setting out what specific steps it will take to provide greater transparency for residents throughout the application and remediation process, and how it will ensure that building owners meet a standard of service in communication with residents.
 - 17.5. ensure that cross-sector work to resolve issues with the External Wall Fire Review process progress at pace. As part of this cross-sector work, the Department must ensure that professionals can acquire indemnity insurance, and leaseholders are not facing escalating insurance premiums. The Department should write to us within three months setting out its assurance that these processes are operating effectively.
 - 17.6. within the next three months, assess the capacity of specialist fire safety skills within the sector and set out what the impact is on delivery of its timetables for the

removal and replacement of unsafe cladding. It should include in this assessment options to tackle the skills shortage so that this does not become a barrier to remediation work continuing at pace.

18. The LGA's [response](#) to the report urged the Government to act on its recommendations without delay.

Fire Protection Board

19. As members will recall from the last meeting, the Home Office has established the Fire Protection Board, membership of which includes the LGA and NFCC. The Board oversaw a Building Risk Review exercise to establish the effectiveness of interim measures at buildings with ACM cladding and whether the relevant fire and rescue service (FRS) had plans in place to deal with a fire in the relevant buildings. This completed prior to the previous meeting.
20. Since FRSs have been engaged on the FPB's wider programme of reviewing the risk in other buildings over 18m. Letters detailing this work went to CFOs with copies to FRA Chairs earlier this summer. To support the work of the Board, £10 million of funding has been made available, divided between central funding to the NFCC and individual fire and rescue services, in addition to funding announced in the budget to support protection (£20 million).

Reform

Fire Safety Bill

21. The Bill has now passed its third reading in the House of Commons. The LGA has welcomed the Bill.
22. The Bill will require Responsible Persons to review their fire risk assessments. This should be relatively straightforward where the building has no cladding system (EWS) or where the duty-holder has evidence to show that the cladding system is safe. However, where a more complex review is necessary, those currently undertaking fire risk assessments are unlikely to have either the specific competence or the professional indemnity insurance to cover EWS.
23. The Home Office has established a task and finish group on the commencement of the Bill. Officers of the LGA and NFCC are on this group, as are a number of other stakeholders including the Fire Sector Federation and the Fire Industry Association.
24. The Group has been asked to make recommendations to the Home Office on how to commence the Bill in a way that does not leave duty-holders unable to meet their obligations. This is likely to involve statutory guidance. The Grenfell Task and Finish Group will be consulted on any draft advice.

Fire Safety Consultation

25. The Government is consulting on proposals to:

- 25.1. strengthen the Regulatory Reform (Fire Safety) Order 2005 and improve compliance.
- 25.2. implement the Grenfell Tower Inquiry Phase 1 Report recommendations that require a change in law to place new requirements on building owners or managers of multi-occupied residential buildings, mostly high-rise buildings.
- 25.3. strengthen the regulatory framework for how building control bodies consult with Fire and Rescue Authorities and the handover of fire safety information.

26. The consultation closes on 12 October 2020.

Building Safety Bill

27. The Bill was published in draft form before the summer recess and is to be subject to pre-legislative scrutiny by the HCLG committee.

28. The Bill establishes a building safety regulator within the HSE to:

- 28.1. Implement the new, more stringent, regulatory regime for higher-risk buildings.
- 28.2. Oversee the safety and performance of all buildings.
- 28.3. Assist and encourage competence among the built environment industry, and registered building inspectors.

29. The implementation of the new regime will see the HSE, councils and fire services form a new, close relationship as council building control services and fire services deliver the regime for higher-risk buildings (Environmental Health services may also be involved). It leaves the HSE and local regulators to work out the practical details, but places all three under a duty to cooperate and gives the HSE the power to direct councils and fire services. The latter power is to be used only in exceptional circumstances and the Bill provides safeguards to prevent it becoming a default option.

30. In practice the regime for higher-risk buildings is expected to involve multi-disciplinary teams not dissimilar to the Joint Inspection Team.

31. The HSE is very keen to engage with the sector and we are facilitating this. Although we have a very good relationship with the HSE, the scale of reform and its complexity make engagement a challenge.
32. In addition, the LGA and Local Authority Building Control are represented on the Joint Regulators Group, an HSE-chaired body advising on policy and implementation, which has been working on the issue for a couple of years.
33. The LGA's evidence to the committee argues that, subject to the necessary secondary legislation being passed and sufficient funds provided - the Bill provides the strong regulatory system needed to deliver an effective system of building safety. Nevertheless, the LGA has expressed the following concerns:
- 33.1. The difficulty of funding building safety measures without bankrupting leaseholders.
 - 33.2. The conflict between the new building safety system and the Government's planning white paper.
 - 33.3. The scope of the Bill, the speed at which its scope can be expanded and the constraints on its expansion.
 - 33.4. How the charging provisions in the Bill will work and set-up costs for the Building Safety Regulator.
 - 33.5. The alignment of this Bill with the Fire Safety Bill.
 - 33.6. The adequacy of the product safety provisions.
 - 33.7. The limited removal of competition in building control.

Letter to Minister

34. The Lead Members of the Fire Services Management Committee wrote to Lord Greenhalgh, the Minister for Fire and Building Safety, to ask that officials discuss with the LGA measures to ensure that extension of Permitted Development Rights does not undermine fire safety. The letter is attached at **Appendix A**.

Implications for Wales

- 35 Building regulations and fire and rescue services are devolved responsibilities of the Welsh Assembly Government, and the main implications arising from the recommendations of the Hackitt Review and the government's response to it are on building regulations and fire safety in England. However, the Welsh government has

announced that it will be making the changes recommended in the report to the regulatory system in Wales, and the LGA has been keeping in contact to ensure the WLGA is kept informed of the latest developments in England.

Financial Implications

- 36 Although the LGA has set up the Joint Inspection Team, the cost of doing so is being met by MHCLG. Other work arising from this report will continue to be delivered within the planned staffing budget, which includes an additional fixed term post in the safer communities team to support the LGA's building safety work.

Next steps

- 37 Officers to continue to support the sector's work to keep residents safe and reform the buildings safety system, as directed by members.